

COMPLAINT
EXHIBIT E



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/048

December 3, 2020

Mr. Neal J. Bingham
Law Offices of Jerry C. Effren
25 West Union Street
Ashland, MA 01721

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-2020-011031; FOIA APPEAL DON-NAVY-2021-001128

This letter responds to your FOIA appeal received by my office on November 10, 2020 and given the tracking number DON-NAVY-2021-001128. Your underlying FOIA request, DON-NAVY-2020-011031, sought records evidencing the certification status of the floating dry dock "Alabama" (the "Dry Dock") owned and/or operated by Alabama Shipyard, LLC (the "Shipyard") as of November 26, 2019; all documents evidencing the certification or re-certification of the Dry Dock on or after November 26, 2019; all documents concerning the "self-certification" of the Dry Dock completed on or after November 26, 2019; all communications between the Military Sealift Command (MSC) and the Shipyard on or after November 26, 2019; and all communications between MSC and any other person or entity concerning the certification of the Dry Dock on or after November 26, 2019. In your appeal, you contend that you have not received a response to your request, which you submitted last year.

Your appeal is a request for a final determination under the FOIA. For the reasons stated below, I am granting your appeal.

Though there has been no denial of your request, I find that the Commander, Military Sealift Command, the initial denial authority (IDA), has exceeded the statutory time limit to respond to your request.

By copy of this letter, I am directing the IDA to inform you of the status of its search for and review of any responsive documents, and to complete its search and review within 20 working days of the date of this letter. If the IDA is unable to complete its search or review of all documents within that time, then I am directing the IDA to provide a rolling release of documents to you as of the date of the 20-working-day deadline after this letter, and to make subsequent releases every 15 days thereafter. Upon final release of all the documents to you, if you are dissatisfied with the response, you

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still retain the right to appeal that response to this office on whatever grounds you deem appropriate, to include adequacy of the search.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. Government and is, therefore, unable to assist you in this process.

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have further questions or concerns for my office, my point of contact is Lieutenant Alyssa Williams, USN, who may be reached at alyssa.e.williams1@navy.mil or (202) 685-5398.

Sincerely,



S. D. SCHROCK
Director
General Litigation Division

Copy to:
MSC
DNS-36
DON OCIO